

Calendar No. 576

103D CONGRESS
2D SESSION

S. 2329

[Report No. 103-339]

A BILL

To settle certain Indian land claims within the State of Connecticut, and for other purposes.

AUGUST 17 (legislative day, AUGUST 11), 1994
Reported with an amendment

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[Report No. 103-339]

To settle certain Indian land claims within the State of Connecticut, and
for other purposes.

IN THE SENATE OF THE UNITED STATES

JULY 27 (legislative day, JULY 20), 1994

Mr. DODD (for himself and Mr. LIEBERMAN) introduced the following bill;
which was read twice and referred to the Committee on Indian Affairs

AUGUST 17 (legislative day, AUGUST 11), 1994

Reported by Mr. INOUE, with an amendment

[Strike out all after the enacting clause and insert the part printed in italic]

A BILL

To settle certain Indian land claims within the State of
Connecticut, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Mohegan Nation of
5 Connecticut Land Claims Settlement Act of 1994”.

1 **SEC. 2. FINDINGS AND PURPOSES.**

2 (a) FINDINGS.—Congress finds the following:

3 (1) The Mohegan Tribe of Indians of Connecti-
4 cut received recognition by the United States pursu-
5 ant to the administrative process under part 83 of
6 title 25 of the Code of Federal Regulations.

7 (2) The Mohegan Tribe of Indians of Connecti-
8 cut is the successor in interest to the aboriginal en-
9 tity known as the Mohegan Indian Tribe.

10 (3) The Mohegan Tribe has existed in the geo-
11 graphic area that is currently the State of Connecti-
12 cut for a long period preceding the colonial period of
13 the history of the United States.

14 (4) Certain lands were sequestered as tribal
15 lands by the Colony of Connecticut and subsequently
16 by the State of Connecticut.

17 (5) The Mohegan Tribe of Indians of Connecti-
18 cut v. State of Connecticut, et al. (Civil Action No.
19 H-77-434, pending before the United States Dis-
20 trict Court for the Southern District of Connecticut)
21 relates to the ownership of certain lands within the
22 State of Connecticut.

23 (6) Such action will likely result in economic
24 hardships for residents of the State of Connecticut
25 by encumbering the title to lands in the State, in-

1 including lands that are not currently the subject of
2 the action.

3 ~~(7) The State of Connecticut and the Mohegan~~
4 ~~Tribe have executed agreements for the purposes of~~
5 ~~resolving all disputes between the State of Connecti-~~
6 ~~cut and the Mohegan Tribe and providing a settle-~~
7 ~~ment for the action referred to in paragraph (5).~~

8 ~~(8) In order to implement the agreements re-~~
9 ~~ferred to in paragraphs (5) and (6) of section 3 that~~
10 ~~address matters of jurisdiction with respect to cer-~~
11 ~~tain offenses committed by and against members of~~
12 ~~the Mohegan Tribe and other Indians in Indian~~
13 ~~country and matters of gaming-related development,~~
14 ~~it is necessary for the Congress to enact legislation.~~

15 ~~(9) The town of Montville, Connecticut, will—~~

16 ~~(A) be affected by the loss of a tax base~~
17 ~~from, and jurisdiction over, lands that will be~~
18 ~~held in trust by the United States on behalf of~~
19 ~~the Mohegan Tribe; and~~

20 ~~(B) serve as the host community for the~~
21 ~~gaming operations of the Mohegan Tribe.~~

22 ~~(10) The town of Montville and the Mohegan~~
23 ~~Tribe have entered into an agreement to resolve is-~~
24 ~~sues extant between them and to establish the basis~~

1 for a cooperative government to government relation-
 2 ship.

3 ~~(b) PURPOSES.~~—The purposes of this Act are as
 4 follows:

5 (1) To facilitate the settlement of claims
 6 against the State of Connecticut by the Mohegan
 7 Tribe.

8 (2) To facilitate the removal of any encum-
 9 brance to any title to land in the State of Connecti-
 10 cut that would have resulted from the action re-
 11 ferred to in subsection (a).

12 **SEC. 3. DEFINITIONS.**

13 As used in this Act:

14 (1) LANDS OR NATURAL RESOURCES.—The
 15 term “lands or natural resources” means any real
 16 property or natural resources, or any interest in or
 17 right involving any real property or natural re-
 18 sources, including any right or interest in minerals,
 19 timber, or water, and any hunting or fishing rights.

20 (2) MOHEGAN TRIBE.—The term “Mohegan
 21 Tribe” means the Mohegan Tribe of Indians of Con-
 22 necticut, a tribe of American Indians recognized by
 23 the United States pursuant to part 83 of title 25,
 24 Code of Federal Regulations, and the State of Con-

1 necticut pursuant to section 47-59a(b) of the Con-
2 necticut General Statutes.

3 (3) SECRETARY.—The term “Secretary” means
4 the Secretary of the Interior.

5 (4) STATE.—The term “State” means the State
6 of Connecticut.

7 (5) STATE AGREEMENT.—The term “State
8 Agreement” means the Agreement between the Mo-
9 hegan Tribe and the State of Connecticut, executed
10 on May 17, 1994, by the Governor of the State of
11 Connecticut and the Chief of the Mohegan Tribe,
12 that was filed with the Secretary of State of the
13 State of Connecticut.

14 (6) TOWN AGREEMENT.—The term “Town
15 Agreement” means the agreement executed on June
16 16, 1994, by the Mayor of the town of Montville and
17 the Chief of the Mohegan Tribe.

18 (7) TRANSFER.—The term “transfer” includes
19 any sale, grant, lease, allotment, partition, or con-
20 veyance, any transaction the purpose of which is to
21 effect a sale, grant, lease, allotment, partition or
22 conveyance, or any event that results in a change of
23 possession or control of land or natural resources.

1 **SEC. 4. ACTION BY SECRETARY.**

2 ~~(a) IN GENERAL.~~—The Secretary is authorized to
 3 carry out the duties specified in subsection ~~(b)~~ at such
 4 time as the Secretary makes a determination that—

5 ~~(1)~~ in accordance with the Indian Gaming Reg-
 6 ulatory Act ~~(25 U.S.C. 2701 et seq.)~~, the State of
 7 Connecticut has entered into a binding compact with
 8 the Mohegan Tribe providing for class III tribal
 9 gaming operations (as defined in section 4(8) of
 10 such Act ~~(25 U.S.C. 2703(8))~~;

11 ~~(2)~~ the compact has been approved by the Sec-
 12 retary pursuant to section ~~11(d)(8)~~ of such Act ~~(25~~
 13 ~~U.S.C. 2710(d)(8))~~; and

14 ~~(3)~~ pursuant to transfers carried out pursuant
 15 to the State Agreement, the United States holds title
 16 to lands described in exhibit B of the State Agree-
 17 ment in trust for the Mohegan Tribe to be used as
 18 the initial Indian reservation of the Mohegan Tribe.

19 ~~(b) PUBLICATION BY SECRETARY.~~—If the Secretary
 20 makes a determination under subsection ~~(a)~~ that the con-
 21 ditions specified in paragraphs ~~(1)~~ through ~~(3)~~ of that
 22 subsection have been met, the Secretary shall publish the
 23 determination, together with the State Agreement, in the
 24 Federal Register.

25 ~~(c) EFFECT OF PUBLICATION.~~—

1 (1) ~~IN GENERAL.~~—Upon the publication of the
 2 determination and the State Agreement in the Fed-
 3 eral Register pursuant to subsection (b), a transfer,
 4 waiver, release, relinquishment, or other commitment
 5 made by the Mohegan Tribe in accordance with the
 6 terms and conditions of the State Agreement shall
 7 be in full force and effect.

8 (2) ~~APPROVAL BY THE UNITED STATES.~~—(A)
 9 The United States hereby approves any transfer,
 10 waiver, release, relinquishment, or other commitment
 11 carried out pursuant to paragraph (1).

12 (B) A transfer made pursuant to paragraph (1)
 13 shall be deemed to have been made in accordance
 14 with all provisions of Federal law that specifically
 15 apply to transfers of lands or natural resources
 16 from, by, or on behalf of an Indian, Indian nation,
 17 or tribe of Indians (including the Act popularly
 18 known as the “Trade and Intercourse Act of 1790”;
 19 section 4 of the Act of July 22, 1790 (1 Stat. 137,
 20 chapter 33)). The approval of the United States
 21 made pursuant to subparagraph (A) shall apply to
 22 the transfer beginning on the date of the transfer.
 23 (d) ~~EXTINGUISHMENT OF CLAIMS.~~—

1 (1) IN GENERAL.—Subject to subsection (g)
2 and paragraph (3), the following claims are hereby
3 extinguished:

4 (A) Any claim to land within the State of
5 Connecticut based upon aboriginal title by the
6 Mohegan Tribe or any predecessor or successor
7 in interest of the Mohegan Tribe.

8 (B) Any other claim that the Mohegan
9 Tribe may have with respect to any public or
10 private lands or natural resources in Connecti-
11 cut, including any claim or right based on rec-
12 ognized title, including—

13 (i) any claim the Mohegan Tribe may
14 have to the tribal sequestered lands bound-
15 ed out to the Tribe in 1684, consisting of
16 some 20,480 acres lying between the
17 Thames River, New London bounds, Nor-
18 wich bounds and Colchester bounds;

19 (ii) any claim the Mohegan Tribe may
20 have based on a survey conducted under
21 the authority of the Connecticut General
22 Assembly in 1736 of lands reserved and se-
23 questered by the General Assembly for the
24 sole use and improvement of the Mohegan
25 Indian Tribe; and

1 (iii) any claim the Mohegan Tribe
 2 may have based on any action by the State
 3 carried out in 1860 or 1861 or otherwise
 4 made by the State to allot, reallocate, or con-
 5 firm any lands of the Mohegan Tribe to in-
 6 dividual Indians or other persons.

7 (2) APPROVAL BY THE UNITED STATES.—An
 8 extinguishment made pursuant to this subsection
 9 shall be deemed to have been made in accordance
 10 with all provisions of Federal law that specifically
 11 apply to transfers of lands or natural resources
 12 from, by, or on behalf of an Indian, Indian nation,
 13 or tribe of Indians (including the Act popularly
 14 known as the “Trade and Intercourse Act of 1790”;
 15 section 4 of the Act of July 22, 1790 (1 Stat. 137,
 16 chapter 33)).

17 (e) TRANSFERS.—Subject to subsection (g), any
 18 transfer of lands or natural resources located within the
 19 State of Connecticut, including any such transfer made
 20 pursuant to any applicable Federal or State law (including
 21 any applicable treaty), made by, from, or on behalf of the
 22 Mohegan Tribe or any predecessor or successor in interest
 23 of the Mohegan Tribe shall be deemed to be in full force
 24 and effect, as provided in subsection (c)(1).

25 (f) LIMITATION.—

1 (1) ~~IN GENERAL.~~—Except as provided in para-
2 graph (2) and subject to subsection (g), by virtue of
3 the approval by the United States under this section
4 of a transfer of land or the extinguishment of ab-
5 original title, any claim by the Mohegan Tribe
6 against the United States, any State or political sub-
7 division of a State, or any other person or entity, by
8 the Mohegan Tribe, that—

9 (A) arises after the transfer or extinguish-
10 ment is carried out; and

11 (B) is based on any interest in or right in-
12 volving any claim to lands or natural resources
13 described in this section, including claims for
14 trespass damages or claims for use and occu-
15 pancy,

16 shall, beginning on the date of the transfer of land
17 or the extinguishment of aboriginal title, be consid-
18 ered an extinguished claim.

19 (2) ~~EXCEPTION.~~—The limitation under para-
20 graph (1) shall not apply to any interest in lands or
21 natural resources that is lawfully acquired by the
22 Mohegan Tribe or a member of the Mohegan Tribe
23 after the applicable date specified in paragraph (1).

24 ~~(g) STATUTORY CONSTRUCTION.~~—

1 (1) ~~ABORIGINAL INTERESTS.~~—Nothing in this
 2 section may be construed to extinguish any aborigi-
 3 nal right, title, interest, or claim to lands on natural
 4 resources, to the extent that such right, title, inter-
 5 est, or claim that is defined as an excepted interest
 6 under section 1(a) of the State Agreement.

7 (2) ~~PERSONAL CLAIMS.~~—Nothing in this sec-
 8 tion may be construed to offset or eliminate the per-
 9 sonal claim of any individual Indian if the individual
 10 Indian pursues such claim under any law of general
 11 applicability.

12 **SEC. 5. CONVEYANCE OF LANDS TO THE UNITED STATES**
 13 **TO BE HELD IN TRUST FOR THE MOHEGAN**
 14 **TRIBE.**

15 (a) ~~IN GENERAL.~~—The Secretary shall take such ac-
 16 tion as may be necessary to facilitate the conveyance to
 17 the United States of title to lands described in exhibits
 18 A and B of the State Agreement. Such lands shall be held
 19 by the United States in trust for the use and benefit of
 20 the Mohegan Tribe as the initial Indian reservation of the
 21 Mohegan Tribe.

22 (b) ~~CONSULTATION.~~—

23 (1) ~~IN GENERAL.~~—The Secretary shall consult
 24 with the appropriate official of the town of Montville
 25 concerning any tract of land subject to exhibit B of

1 the State Agreement but not specifically identified in
2 such exhibit with respect to the impact on the town
3 resulting from—

4 (A) the removal of the land from taxation
5 by the town;

6 (B) problems concerning the determination
7 of jurisdiction; and

8 (C) potential land use conflicts.

9 (2) STATUTORY CONSTRUCTION.—Nothing in
10 this Act may affect the right of the town of
11 Montville to participate, under any applicable law, in
12 decisionmaking processes concerning the acquisition
13 of any lands by the Federal Government to be held
14 in trust for the Mohegan Tribe.

15 **SEC. 6. RATIFICATION OF STATE AGREEMENT.**

16 The consent of the United States is hereby given to
17 the following provisions of the State Agreement:

18 (1) Subsections (c) and (d) of section 1, relat-
19 ing to the location of any tribal gaming operation
20 and the conditions of gaming-related development.

21 (2) Section 1(f), relating to payments on real
22 property.

23 (3) Section 1(g), relating to matters of criminal
24 jurisdiction.

1 (4) Section 1(h), relating to gaming-related
2 traffic control jurisdiction.

3 **SEC. 7. RATIFICATION OF TOWN AGREEMENT.**

4 (a) IN GENERAL.—Notwithstanding any other provi-
5 sion of law, the Mohegan Tribe is authorized to make pay-
6 ments to the town of Montville in accordance with the
7 terms of the Town Agreement, subject to modification by
8 mutual agreement of the parties to the Town Agreement.

9 (b) APPROVAL OF TOWN AGREEMENT.—Notwith-
10 standing any other provision of law—

11 (1) as soon as practicable after the date of en-
12 actment of this Act, the Secretary shall approve the
13 Town Agreement; and

14 (2) the Secretary shall approve any subsequent
15 amendments made to the agreement by both the
16 town of Montville and the Mohegan Tribe.

17 **SEC. 8. GENERAL DISCHARGE AND RELEASE OF STATE OF**
18 **CONNECTICUT.**

19 Except as expressly provided in this Act, the State
20 Agreement, or the Town Agreement, this Act shall con-
21 stitute a general discharge and release of all obligations
22 of the State of Connecticut and the political subdivisions,
23 agencies, departments, officers, or employees of the State
24 of Connecticut arising from any treaty or agreement with,

1 or on behalf of, the Mohegan Tribe or the United States
2 as trustee for the Mohegan Tribe.

3 **SEC. 9. EFFECT OF REVOCATION OF STATE AGREEMENT.**

4 (a) ~~IN GENERAL.~~—If the State Agreement is invali-
5 dated, or if the gaming compact described in section
6 4(a)(1) or any agreement between the State of Connecti-
7 cut and the Mohegan Tribe to implement the compact is
8 invalidated by a court of competent jurisdiction—

9 (1) the transfers, waivers, releases,
10 relinquishments, and other commitments made by
11 the Mohegan Tribe under section 1(a) of the State
12 Agreement shall cease to be of any force or effect;

13 (2) section 4 of this Act shall not apply to the
14 lands, interest in lands or natural resources of the
15 Mohegan Tribe or any of its members, and the title
16 to the lands or interests in lands or natural re-
17 sources shall be determined as if such section were
18 never enacted; and

19 (3) the approval by the United States of prior
20 transfers and the extinguishment of claims and ab-
21 original title of the Mohegan Tribe otherwise made
22 under section 4 shall be void.

23 (b) ~~RIGHT OF MOHEGAN TRIBE TO REINSTATE~~
24 ~~CLAIM.~~—

1 ~~(1) IN GENERAL.—~~If a State Agreement or
 2 compact or agreement described in subsection (a) is
 3 invalidated by a court of competent jurisdiction, the
 4 Mohegan Tribe or its members shall have the right
 5 to reinstate a claim to lands or interests in lands or
 6 natural resources to which the Tribe or members are
 7 entitled as a result of the invalidation, within a rea-
 8 sonable time, but not later than the later of—

9 ~~(A)~~ 180 days after the Mohegan Tribe re-
 10 ceives written notice of such determination of
 11 an invalidation described in subsection (a); or

12 ~~(B)~~ if the determination of the invalidation
 13 is subject to an appeal, 180 days after the court
 14 of last resort enters a judgment.

15 ~~(2) DEFENSES.—~~Notwithstanding any other
 16 provision of law, if a party to an action described in
 17 paragraph (1) reinstates the action during the pe-
 18 riod described in paragraph (1)(B)—

19 ~~(A)~~ no defense, such as laches, statute of
 20 limitations, law of the case, res judicata, or
 21 prior disposition may be asserted based on the
 22 withdrawal of the action and reinstatement of
 23 the action; and

24 ~~(B)~~ the substance of any discussions lead-
 25 ing to the State Agreement may not be admissi-

ble in any subsequent litigation, except that, if
 any such action is reinstated, any defense that
 would have been available to the State of Con-
 necticut at the time the action was with-
 drawn—

(i) may be asserted; and

(ii) is not waived by anything in the
 State Agreement or by subsequent events
 occurring between the withdrawal action
 and commencement of the reinstated ac-
 tion.

SEC. 10. JUDICIAL REVIEW.

(a) JURISDICTION.—Notwithstanding any other pro-
 vision of law, during the period beginning on the date of
 enactment of this Act and ending on the date that is 180
 days after such date, the United States District Court for
 the Southern District of Connecticut shall have exclusive
 jurisdiction over any action to contest the constitutionality
 of this Act or the validity of any agreement entered into
 under the authority of this Act or approved by this Act.

(b) DEADLINE FOR FILING.—Effective with the ter-
 mination of the period specified in subsection (a), no court
 shall have jurisdiction over any action to contest the con-
 stitutionality of this Act or the validity of any agreement
 entered into under the authority of this Act or approved

1 by this Act, unless such action was filed prior to the date
 2 of termination of the period specified in subsection (a).

3 **SECTION 1. SHORT TITLE.**

4 *This Act may be cited as the “Mohegan Nation of Con-*
 5 *necticut Land Claims Settlement Act of 1994”.*

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 *(a) FINDINGS.—Congress finds the following:*

8 *(1) The Mohegan Tribe of Indians of Connecticut*
 9 *received recognition by the United States pursuant to*
 10 *the administrative process under part 83 of title 25*
 11 *of the Code of Federal Regulations.*

12 *(2) The Mohegan Tribe of Indians of Connecticut*
 13 *is the successor in interest to the aboriginal entity*
 14 *known as the Mohegan Indian Tribe.*

15 *(3) The Mohegan Tribe has existed in the geo-*
 16 *graphic area that is currently the State of Connecti-*
 17 *cut for a long period preceding the colonial period of*
 18 *the history of the United States.*

19 *(4) Certain lands were sequestered as tribal*
 20 *lands by the Colony of Connecticut and subsequently*
 21 *by the State of Connecticut.*

22 *(5) The Mohegan Tribe of Indians of Connecticut*
 23 *v. State of Connecticut, et al. (Civil Action No. H-*
 24 *77-434, pending before the United States District*
 25 *Court for the Southern District of Connecticut) relates*

1 to the ownership of certain lands within the State of
2 Connecticut.

3 (6) Such action will likely result in economic
4 hardships for residents of the State of Connecticut, in-
5 cluding residents of the town of Montville, Connecti-
6 cut, by encumbering the title to lands in the State, in-
7 cluding lands that are not currently the subject of the
8 action.

9 (7) The State of Connecticut and the Mohegan
10 Tribe have executed agreements for the purposes of re-
11 solving all disputes between the State of Connecticut
12 and the Mohegan Tribe and providing a settlement
13 for the action referred to in paragraph (5).

14 (8) In order to implement the agreements re-
15 ferred to in paragraphs (5) and (6) of section 3 that
16 address matters of jurisdiction with respect to certain
17 offenses committed by and against members of the
18 Mohegan Tribe and other Indians in Indian country
19 and matters of gaming-related development, it is nec-
20 essary for the Congress to enact legislation.

21 (9) The town of Montville, Connecticut, will—

22 (A) be affected by the loss of a tax base
23 from, and jurisdiction over, lands that will be
24 held in trust by the United States on behalf of
25 the Mohegan Tribe; and

1 (B) serve as the host community for the
2 gaming operations of the Mohegan Tribe.

3 (10) The town of Montville and the Mohegan
4 Tribe have entered into an agreement to resolve issues
5 extant between them and to establish the basis for a
6 cooperative government-to-government relationship.

7 (b) *PURPOSES.*—The purposes of this Act are as fol-
8 lows:

9 (1) To facilitate the settlement of claims against
10 the State of Connecticut by the Mohegan Tribe.

11 (2) To facilitate the removal of any encumbrance
12 to any title to land in the State of Connecticut that
13 would have resulted from the action referred to in
14 subsection (a).

15 **SEC. 3. DEFINITIONS.**

16 *As used in this Act:*

17 (1) *LANDS OR NATURAL RESOURCES.*—The term
18 “lands or natural resources” means any real property
19 or natural resources, or any interest in or right in-
20 volving any real property or natural resources, in-
21 cluding any right or interest in minerals, timber, or
22 water, and any hunting or fishing rights.

23 (2) *MOHEGAN TRIBE.*—The term “Mohegan
24 Tribe” means the Mohegan Tribe of Indians of Con-
25 necticut, a tribe of American Indians recognized by

1 *the United States pursuant to part 83 of title 25,*
2 *Code of Federal Regulations, and the State of Con-*
3 *necticut pursuant to section 47-59a(b) of the Con-*
4 *necticut General Statutes.*

5 (3) *SECRETARY.*—*The term “Secretary” means*
6 *the Secretary of the Interior.*

7 (4) *STATE.*—*The term “State” means the State*
8 *of Connecticut.*

9 (5) *STATE AGREEMENT.*—*The term “State Agree-*
10 *ment” means the Agreement between the Mohegan*
11 *Tribe and the State of Connecticut, executed on May*
12 *17, 1994, by the Governor of the State of Connecticut*
13 *and the Chief of the Mohegan Tribe, that was filed*
14 *with the Secretary of State of the State of Connecti-*
15 *cut.*

16 (6) *TOWN AGREEMENT.*—*The term “Town Agree-*
17 *ment” means the agreement executed on June 16,*
18 *1994, by the Mayor of the town of Montville and the*
19 *Chief of the Mohegan Tribe.*

20 (7) *TRANSFER.*—*The term “transfer” includes*
21 *any sale, grant, lease, allotment, partition, or convey-*
22 *ance, any transaction the purpose of which is to effect*
23 *a sale, grant, lease, allotment, partition, or convey-*
24 *ance, or any event that results in a change of posses-*
25 *sion or control of land or natural resources.*

1 **SEC. 4. ACTION BY SECRETARY.**

2 (a) *IN GENERAL.*—The Secretary is authorized to
3 carry out the duties specified in subsection (b) at such time
4 as the Secretary makes a determination that—

5 (1) in accordance with the Indian Gaming Reg-
6 ulatory Act (25 U.S.C. 2701 et seq.), the State of Con-
7 necticut has entered into a binding compact with the
8 Mohegan Tribe providing for class III tribal gaming
9 operations (as defined in section 4(8) of such Act (25
10 U.S.C. 2703(8)));

11 (2) the compact has been approved by the Sec-
12 retary pursuant to section 11(d)(8) of such Act (25
13 U.S.C. 2710(d)(8)); and

14 (3) pursuant to transfers carried out pursuant to
15 the State Agreement, the United States holds title to
16 lands described in exhibit B of the State Agreement
17 in trust for the Mohegan Tribe to be used as the ini-
18 tial Indian reservation of the Mohegan Tribe.

19 (b) *PUBLICATION BY SECRETARY.*—If the Secretary
20 makes a determination under subsection (a) that the condi-
21 tions specified in paragraphs (1) through (3) of that sub-
22 section have been met, the Secretary shall publish the deter-
23 mination, together with the State Agreement, in the Federal
24 Register.

25 (c) *EFFECT OF PUBLICATION.*—

1 (1) *IN GENERAL.*—Upon the publication of the
2 determination and the State Agreement in the Fed-
3 eral Register pursuant to subsection (b), a transfer,
4 waiver, release, relinquishment, or other commitment
5 made by the Mohegan Tribe in accordance with the
6 terms and conditions of the State Agreement shall be
7 in full force and effect.

8 (2) *APPROVAL BY THE UNITED STATES.*—(A)
9 The United States hereby approves any transfer,
10 waiver, release, relinquishment, or other commitment
11 carried out pursuant to paragraph (1).

12 (B) A transfer made pursuant to paragraph (1)
13 shall be deemed to have been made in accordance with
14 all provisions of Federal law that specifically apply
15 to transfers of lands or natural resources from, by, or
16 on behalf of an Indian, Indian nation, or tribe of In-
17 dians (including the Act popularly known as the
18 “Trade and Intercourse Act of 1790”; section 4 of the
19 Act of July 22, 1790 (1 Stat. 137, chapter 33)). The
20 approval of the United States made pursuant to sub-
21 paragraph (A) shall apply to the transfer beginning
22 on the date of the transfer.

23 (d) *EXTINGUISHMENT OF CLAIMS.*—

24 (1) *IN GENERAL.*—Subject to subsections (f)(2)
25 and (g), the following claims are hereby extinguished:

1 (A) Any claim to land within the State of
2 Connecticut based upon aboriginal title by the
3 Mohegan Tribe.

4 (B) Any other claim that the Mohegan
5 Tribe may have with respect to any public or
6 private lands or natural resources in Connecti-
7 cut, including any claim or right based on recog-
8 nized title, including—

9 (i) any claim that the Mohegan Tribe
10 may have to the tribal sequestered lands
11 bounded out to the Tribe in 1684, consisting
12 of some 20,480 acres lying between the
13 Thames River, New London bounds, Nor-
14 wich bounds, and Colchester bounds;

15 (ii) any claim that the Mohegan Tribe
16 may have based on a survey conducted
17 under the authority of the Connecticut Gen-
18 eral Assembly in 1736 of lands reserved and
19 sequestered by the General Assembly for the
20 sole use and improvement of the Mohegan
21 Indian Tribe; and

22 (iii) any claim that the Mohegan Tribe
23 may have based on any action by the State
24 carried out in 1860 or 1861 or otherwise
25 made by the State to allot, realLOT, or con-

1 *firm any lands of the Mohegan Tribe to in-*
 2 *dividual Indians or other persons.*

3 (2) *APPROVAL BY THE UNITED STATES.*—*An ex-*
 4 *tinguishment made pursuant to this subsection shall*
 5 *be deemed to have been made in accordance with all*
 6 *provisions of Federal law that specifically apply to*
 7 *transfers of lands or natural resources from, by, or on*
 8 *behalf of an Indian, Indian nation, or tribe of Indi-*
 9 *ans (including the Act popularly known as the*
 10 *“Trade and Intercourse Act of 1790”; section 4 of the*
 11 *Act of July 22, 1790 (1 Stat. 137, chapter 33)).*

12 (e) *TRANSFERS.*—*Subject to subsection (g), any trans-*
 13 *fer of lands or natural resources located within the State*
 14 *of Connecticut, including any such transfer made pursuant*
 15 *to any applicable Federal or State law (including any ap-*
 16 *plicable treaty), made by, from, or on behalf of the Mohegan*
 17 *Tribe or any predecessor or successor in interest of the Mo-*
 18 *hegan Tribe shall be deemed to be in full force and effect,*
 19 *as provided in subsection (c)(1).*

20 (f) *LIMITATION.*—

21 (1) *IN GENERAL.*—*Except as provided in para-*
 22 *graph (2) and subject to subsection (g), by virtue of*
 23 *the approval by the United States under this section*
 24 *of a transfer of land or the extinguishment of aborigi-*
 25 *nal title, any claim by the Mohegan Tribe against the*

1 *United States, any State or political subdivision of a*
 2 *State, or any other person or entity, by the Mohegan*
 3 *Tribe, that—*

4 *(A) arises after the transfer or extinguish-*
 5 *ment is carried out; and*

6 *(B) is based on any interest in or right in-*
 7 *volving any claim to lands or natural resources*
 8 *described in this section, including claims for*
 9 *trespass damages or claims for use and occu-*
 10 *pancy,*

11 *shall, beginning on the date of the transfer of land or*
 12 *the extinguishment of aboriginal title, be considered*
 13 *an extinguished claim.*

14 *(2) EXCEPTION.—The limitation under para-*
 15 *graph (1) shall not apply to any interest in lands or*
 16 *natural resources that is lawfully acquired by the Mo-*
 17 *hegan Tribe or a member of the Mohegan Tribe after*
 18 *the applicable date specified in paragraph (1).*

19 *(g) STATUTORY CONSTRUCTION.—*

20 *(1) ABORIGINAL INTERESTS.—Nothing in this*
 21 *section may be construed to extinguish any aboriginal*
 22 *right, title, interest, or claim to lands or natural re-*
 23 *sources, to the extent that such right, title, interest, or*
 24 *claim is an excepted interest, as defined under section*
 25 *1(a) of the State Agreement.*

1 (2) *PERSONAL CLAIMS.*—*Nothing in this section*
 2 *may be construed to offset or eliminate the personal*
 3 *claim of any individual Indian if the individual In-*
 4 *dian pursues such claim under any law of general*
 5 *applicability.*

6 **SEC. 5. CONVEYANCE OF LANDS TO THE UNITED STATES TO**
 7 **BE HELD IN TRUST FOR THE MOHEGAN**
 8 **TRIBE.**

9 (a) *IN GENERAL.*—*Subject to the environmental re-*
 10 *quirements that apply to land acquisitions covered under*
 11 *part 151 of title 25, Code of Federal Regulations (or any*
 12 *subsequent similar regulation), the Secretary shall take such*
 13 *action as may be necessary to facilitate the conveyance to*
 14 *the United States of title to lands described in exhibits A*
 15 *and B of the State Agreement. Such lands shall be held by*
 16 *the United States in trust for the use and benefit of the*
 17 *Mohegan Tribe as the initial Indian reservation of the Mo-*
 18 *hegan Tribe.*

19 (b) *CONSULTATION.*—

20 (1) *IN GENERAL.*—*The Secretary shall consult*
 21 *with the appropriate official of the town of Montville*
 22 *concerning any tract of land subject to exhibit B of*
 23 *the State Agreement but not specifically identified in*
 24 *such exhibit with respect to the impact on the town*
 25 *resulting from—*

1 (A) the removal of the land from taxation
2 by the town;

3 (B) problems concerning the determination
4 of jurisdiction; and

5 (C) potential land use conflicts.

6 (2) *STATUTORY CONSTRUCTION.*—Nothing in this
7 Act may affect the right of the town of Montville to
8 participate, under any applicable law, in decision-
9 making processes concerning the acquisition of any
10 lands by the Federal Government to be held in trust
11 for the Mohegan Tribe.

12 **SEC. 6. CONSENT OF UNITED STATES TO STATE ASSUMP-**
13 **TION OF CRIMINAL JURISDICTION.**

14 (a) *IN GENERAL.*—Subject to subsection (b), the con-
15 sent of the United States is hereby given to the assumption
16 of jurisdiction by the State of Connecticut over criminal
17 offenses committed by or against Indians on the reservation
18 of the Mohegan Tribe. The State shall have such jurisdiction
19 to the same extent as the State has jurisdiction over such
20 offenses committed elsewhere within the State. The criminal
21 laws of the State shall have the same force within such res-
22 ervation and Indian country as such laws have elsewhere
23 within the State.

24 (b) *STATUTORY CONSTRUCTION.*—

1 (1) *EFFECT ON CONCURRENT JURISDICTION OF*
 2 *THE MOHEGAN TRIBE.*—*The assumption of criminal*
 3 *jurisdiction by the State pursuant to subsection (a)*
 4 *shall not affect the concurrent jurisdiction of the Mo-*
 5 *hegan Tribe over matters concerning such criminal of-*
 6 *fenses.*

7 (2) *STATUTORY CONSTRUCTION.*—*The assump-*
 8 *tion of criminal jurisdiction by the State pursuant to*
 9 *subsection (a) shall not be construed as a waiver of*
 10 *the jurisdiction of the United States under section*
 11 *1153 of title 18, United States Code.*

12 **SEC. 7. RATIFICATION OF TOWN AGREEMENT.**

13 (a) *IN GENERAL.*—*Notwithstanding any other provi-*
 14 *sion of law, the consent of the United States is hereby given*
 15 *to the Town Agreement and the Town Agreement shall be*
 16 *in full force and effect.*

17 (b) *APPROVAL OF TOWN AGREEMENT.*—*The Secretary*
 18 *shall approve any subsequent amendments made to the*
 19 *Town Agreement after the date of enactment of this Act that*
 20 *are—*

21 (1) *mutually agreed on by the parties to the*
 22 *Town Agreement; and*

23 (2) *consistent with applicable law.*

1 **SEC. 8. GENERAL DISCHARGE AND RELEASE OF OBLIGA-**
 2 **TIONS OF STATE OF CONNECTICUT.**

3 *Except as expressly provided in this Act, the State*
 4 *Agreement, or the Town Agreement, this Act shall constitute*
 5 *a general discharge and release of all obligations of the*
 6 *State of Connecticut and the political subdivisions, agen-*
 7 *cies, departments, officers, or employees of the State of Con-*
 8 *necticut arising from any treaty or agreement with, or on*
 9 *behalf of, the Mohegan Tribe or the United States as trustee*
 10 *for the Mohegan Tribe.*

11 **SEC. 9. EFFECT OF REVOCATION OF STATE AGREEMENT.**

12 *(a) IN GENERAL.—If, during the 15-year period begin-*
 13 *ning on the date on which the Secretary publishes a deter-*
 14 *mination pursuant to section 4(b), the State Agreement is*
 15 *invalidated by a court of competent jurisdiction, or if the*
 16 *gaming compact described in section 4(a)(1) or any agree-*
 17 *ment between the State of Connecticut and the Mohegan*
 18 *Tribe to implement the compact is invalidated by a court*
 19 *of competent jurisdiction—*

20 *(1) the transfers, waivers, releases,*
 21 *relinquishments, and other commitments made by the*
 22 *Mohegan Tribe under section 1(a) of the State Agree-*
 23 *ment shall cease to be of any force or effect;*

24 *(2) section 4 of this Act shall not apply to the*
 25 *lands or interests in lands or natural resources of the*
 26 *Mohegan Tribe or any of its members, and the title*

1 to the lands or interests in lands or natural resources
 2 shall be determined as if such section were never en-
 3 acted; and

4 (3) the approval by the United States of prior
 5 transfers and the extinguishment of claims and ab-
 6 original title of the Mohegan Tribe otherwise made
 7 under section 4 shall be void.

8 (b) *RIGHT OF MOHEGAN TRIBE TO REINSTATE*
 9 *CLAIM.*—

10 (1) *IN GENERAL.*—If a State Agreement or com-
 11 pact or agreement described in subsection (a) is in-
 12 validated by a court of competent jurisdiction, the
 13 Mohegan Tribe or its members shall have the right to
 14 reinstate a claim to lands or interests in lands or
 15 natural resources to which the Tribe or members are
 16 entitled as a result of the invalidation, within a rea-
 17 sonable time, but not later than the later of—

18 (A) 180 days after the Mohegan Tribe re-
 19 ceives written notice of such determination of an
 20 invalidation described in subsection (a); or

21 (B) if the determination of the invalidation
 22 is subject to an appeal, 180 days after the court
 23 of last resort enters a judgment.

24 (2) *DEFENSES.*—Notwithstanding any other pro-
 25 vision of law, if a party to an action described in

1 *paragraph (1) reinstates the action during the period*
 2 *described in paragraph (1)(B)—*

3 *(A) no defense, such as laches, statute of*
 4 *limitations, law of the case, res judicata, or*
 5 *prior disposition may be asserted based on the*
 6 *withdrawal of the action and reinstatement of*
 7 *the action; and*

8 *(B) the substance of any discussions leading*
 9 *to the State Agreement may not be admissible in*
 10 *any subsequent litigation, except that, if any*
 11 *such action is reinstated, any defense that would*
 12 *have been available to the State of Connecticut at*
 13 *the time the action was withdrawn—*

14 *(i) may be asserted; and*

15 *(ii) is not waived by anything in the*
 16 *State Agreement or by subsequent events oc-*
 17 *curring between the withdrawal action and*
 18 *commencement of the reinstated action.*

19 **SEC. 10. JUDICIAL REVIEW.**

20 *(a) JURISDICTION.—Notwithstanding any other provi-*
 21 *sion of law, during the period beginning on the date of en-*
 22 *actment of this Act and ending on the date that is 180 days*
 23 *after such date, the United States District Court for the*
 24 *Southern District of Connecticut shall have exclusive juris-*
 25 *diction over any action to contest the constitutionality of*

1 *this Act or the validity of any agreement entered into under*
2 *the authority of this Act or approved by this Act.*

3 *(b) DEADLINE FOR FILING.—Effective with the termi-*
4 *nation of the period specified in subsection (a), no court*
5 *shall have jurisdiction over any action to contest the con-*
6 *stitutionality of this Act or the validity of any agreement*
7 *entered into under the authority of this Act or approved*
8 *by this Act, unless such action was filed prior to the date*
9 *of termination of the period specified in subsection (a).*

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S 2329 RS——3